

STATE OF TENNESSEE
DEPARTMENT OF HEALTH

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In the Matter of:

Brenda Friend

Tenn. A.P.R.N. Certificate No. 13499

Virginia R.N. License No. 0001176734

Bristol, Virginia

Respondent

) BEFORE THE TENNESSEE SECRETARY OF STATE
) BOARD OF NURSING

) Case No. 17.19-137900A

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AGREED ORDER

The State of Tennessee, by and through the Office of General Counsel, and the Respondent, Brenda Friend, A.P.R.N., R.N., hereby stipulate and agree, subject to approval by the Tennessee Board of Nursing ("Board"), to the following:

I. Authority & Jurisdiction

The Board regulates and supervises nurses licensed to practice pursuant to the Tennessee Nurse Practice Act (the Practice Act), Tennessee Code Annotated Section 63-7-101, *et seq.*, including the discipline of licensees who violate the Practice Act and the Rules promulgated by the Board, *Official Compilation of Rules and Regulations of the State of Tennessee*. The Board enforces the Practice Act to promote and protect the health, safety and welfare of the public; accordingly, it is the policy of the Board to require strict compliance with the law and to apply the law to preserve the quality of nursing care provided in Tennessee.

II. Stipulations of Fact

1. Respondent has been at all pertinent times licensed as a Registered Nurse in the State of Virginia, granting her a privilege to practice in the State of Tennessee. At all pertinent times, Respondent has also been certified by the Board as an Advanced Practice Registered Nurse in the State of Tennessee, having been granted certificate number 13499 by the Board on July 1, 2008, which currently has an expiration date of September 30, 2017. Additionally, Respondent possesses a Drug Enforcement Administration ("DEA") Certificate to Prescribe Controlled Substances.

2. At all relevant times hereto, Respondent worked in a specialized pain management practice under the supervision of a medical doctor who is board certified in anesthesiology and is a diplomate of the American Academy of Pain Management and the American Board of Pain Medicine.
3. That pain management practice only manages referred chronic pain patients not able to be managed by his or her referring physician.
4. On November 20, 2013, Respondent timely provided copies of the medical records of eighteen (18) patients to the Department of Health ("Department") pursuant to the Department's request under TENN. CODE ANN. § 68-1-128.
5. The Department reviewed Respondent's patient records and determined Respondent failed to adequately document periodic visual assessments of patients and her review of patient histories and prior physical evaluations while prescribing high dosages of controlled substances to five (5) patients, namely, J.L.B., J.L.Y., P.J.R., R.E.H., and R.J.C.
6. The Department reviewed the records of an additional patient, W.B.B. provided by the Respondent in 2012 along with 24 other patient records. The Department determined Respondent failed to adequately document measures taken by her in response to evidence of potential drug diversion by patient W.B.B.
7. Additionally, in 2013 Respondent failed to register with the Tennessee Controlled Substance Monitoring Database (CSMD) as required by law and failed to document that she utilized the CSMD to check the status of certain patients for whom she prescribed opioids.
8. Respondent is in the process of transferring within the health system in which she works from a chronic pain management practice to a practice not engaged in chronic pain management.

III. Grounds for Discipline

9. The Stipulations of Fact are sufficient to establish Respondent has violated the following statutes or rules that are part of the Nursing Practice Act, TENN. CODE ANN. § 63-7-101, *et seq.*, and TENN. COMP. R. & REGS., 1000-01-.01, *et seq.* and 1000-04-.01, *et seq.*, for which disciplinary action by the Board is authorized. As detailed below:

- a. The stipulated facts constitute a violation of Rule 1000-04-.08 of the TENN. COMP. R. & REGS, which lays out guidelines for proper prescribing for the treatment of pain.
- b. The stipulated facts constitute a violation of Rule 1000-04-.09 of the TENN. COMP. R. & REGS, which lays out the prerequisites for prescribing medication, including an appropriate history and physical, diagnosis based on examinations and diagnostic tests, and a therapeutic plan including discussion of the risks and benefits of various treatment options.
- c. The stipulated facts constitute a violation of TENN. CODE ANN. § 53-10-305(a):

All prescribers with DEA numbers who prescribe controlled substances and dispensers in practice providing direct care to patients in Tennessee for more than fifteen (15) calendar days per year shall be registered in the controlled substance database. New licensees shall have up to thirty (30) calendar days after notification of licensure to register in the database. Licensed veterinarians who never prescribe a controlled substance in an amount intended to treat a non-human patient for more than forty-eight (48) hours shall not be required to register in the database.

- d. The stipulated facts constitute a violation of TENN. CODE ANN. § 53-10-310(e)(1):

All prescribers or their designated healthcare practitioner's extenders, unless otherwise exempted under this part, shall check the controlled substance database prior to prescribing one of the controlled substances identified in subdivision (e)(3) to a human patient at the beginning of a new episode of treatment and shall check the controlled substance database for that human patient at least annually when that prescribed controlled substance remains part of the treatment.

IV. Disposition

- 15. For the purpose of avoiding further administrative action with respect to this cause, Respondent agrees to have her Advanced Practice Registered Nurse certificate, No. 13499 is **REPRIMANDED**.
- 16. Respondent shall enter into a contract for chart review with Affiliated Monitors, Inc. ("Affiliated") that continues for a period of five (5) years as described herein. Affiliated's contract is not a restriction or encumbrance on Respondent's license or practice.

Respondent shall have not less than ten (10) of her patients' records for patients seen within the prior ninety (90) days receiving controlled substances reviewed by Affiliated every ninety (90) days. Affiliated shall determine which records to review and may at its discretion review more than ten (10) of the Respondent's records for patients who were prescribed controlled substances during that 90 day period. If Respondent has not prescribed any controlled substances during the prior ninety (90) day period, Respondent shall certify such to Affiliated's designated reviewer, and submit a printout of the controlled substance monitoring database for the prior ninety (90) day period.

17. Respondent shall comply with all charting and educational recommendations of Affiliated's designated reviewer.
18. Respondent shall cause Affiliated to issue a report to the Board's Medical Director every ninety (90) days beginning ninety (90) days after the entry of this Order detailing the findings of the practice monitor in regards to the Respondent's:
 - a. Compliance with practice reviewer's recommendations,
 - b. Respondent's prescribing practices, and
 - c. Respondent's medical record keeping.
19. Respondent shall be responsible for the timely payment of all costs associated with the agreement between herself and Affiliated.
20. Respondent is assessed eight (8) Type A civil penalties of seven hundred fifty dollars (\$750) each, representing one penalty for each month of practicing pain management while not registered with the CSMD from January to August 2013, for a total civil penalty of six thousand dollars (\$6,000).
21. Respondent is assessed six (6) Type A civil penalties of one thousand dollars (\$1000) each, representing one penalty for each patient to whom Respondent improperly prescribed

controlled substances, for a total civil penalty of six thousand dollars (\$6,000). All civil penalties are due within 180 days of ratification of this Consent Order.

22. Respondent agrees to pay a total civil penalty of \$12,000. All civil penalties are due within one (1) year of the ratification of this Consent Order.

23. Within one (1) year of the entry of this Order:

a. Respondent must enroll in and successfully complete the course entitled "Intensive Course in Controlled Substance Prescribing" offered at The Case Western Reserve University Continuing Medical Education Program or an equivalent course pre-approved by the Board's Medical Director.

b. Respondent must enroll in and successfully complete the course entitled "Intensive Course in Medical Documentation" offered at The Case Western Reserve University Continuing Medical Education Program or an equivalent course pre-approved by the Board's Medical Director. Proof of completion of these approved courses shall be sent to:

Office of Investigations
Attn: Disciplinary Coordinator
Tennessee Department of Health
665 Mainstream Drive
Nashville, TN 37228

24. Respondent must pay the costs of this action pursuant to TENN. CODE ANN. §§ 63-7-115(d) and 63-1-144 and TENN. COMP. R. & REGS. 1000-01-.04(11). These costs will be established by an Assessment of Costs prepared by Counsel for the Department and shall not exceed Forty Thousand Dollars (\$40,000.00). All costs are due within sixty (60) days of the mailing of the Assessment of Costs. Costs shall be paid by submitting a certified check, cashier's check or money order payable to the State of Tennessee, which shall be mailed or delivered to:

Office of Investigations

Attn: Disciplinary Coordinator
Tennessee Department of Health
665 Mainstream Drive
Nashville, TN 37243

25. Respondent understands and acknowledges this reprimand is a formal disciplinary action and will be reported to the National Practitioner Data Bank (NPDB).

V. Representations of Respondent

26. Respondent understands and admits the allegations, charges, and stipulations in this Agreed Order.
27. Respondent understands the rights found in the Practice Act and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 to -404, including the right to a hearing on the Notice of Charges to contest the charges and allegations, the right to appear personally and by legal counsel, the right to confront and cross-examine witnesses who would testify against Respondent, the right to testify and present evidence on Respondent's own behalf, to the right to issue subpoenas to compel the attendance of witnesses and the production of documents, and the right to appeal for judicial review. Respondent voluntarily waives these rights to avoid further administrative action.
28. Respondent agrees that presentation of this Order to the Board and the Board's consideration of it and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members become prejudiced, requiring their disqualification from hearing this matter, should this Order not be ratified. All matters, admissions, and statements disclosed during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.
29. Respondent also agrees the Board may issue this Order without further process. If the

Board rejects this Order for any reason, it will be of no force or effect for either party.

Approval by the Board

Upon the agreement of the parties and the record as a whole, this **CONSENT ORDER** is approved as a **FINAL ORDER** of the Tennessee Board of Nursing by a majority of a quorum of the Board at a public meeting of the Board, this the 1 day of Feb, 2016~~17~~.



Chair/Acting Chair
Tennessee Board of Nursing

APPROVED FOR ENTRY:



Brenda Friend

1-25-17

DATE

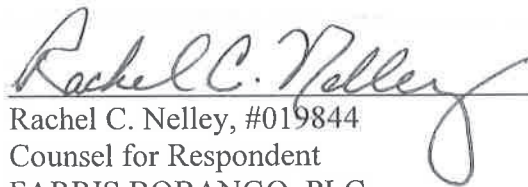
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Samuel P. Helmbrecht, #023683
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Attorneys for Respondent

1-25-17

DATE



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414 Union Street; Suite 1105
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1-25-17

DATE



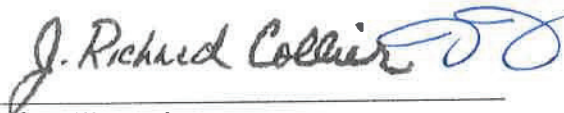
Andrew W. Coffman (BPR #027160)
Assistant General Counsel
Tennessee Department of Health
665 Mainstream Drive, 2nd Floor
Nashville, TN 37243

2/1/2017

DATE

CERTIFICATE OF FILING

This Agreed Order was received for filing in the Office of the Tennessee Secretary of State, Administrative Procedures Division, and became effective on the 2nd day of February, 2017.



Richard Collier, Director
Administrative Procedures Division

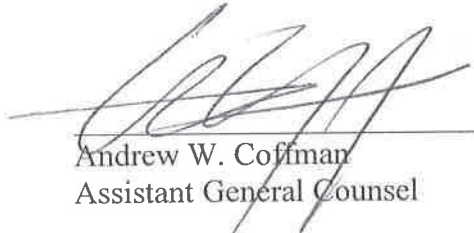
CERTIFICATE OF SERVICE

I certify a true and correct copy of the foregoing has been served via first class mail postage prepaid upon:

Rachel C. Nelley, Esq.
Counsel for Respondent
FARRIS BOBANGO, PLC
Bank of America Plaza
414 Union Street; Suite 1105
Nashville, TN 37219

Samuel P. Helmbrecht, Esq.
Counsel for Respondent
Watkins & McNeilly, PLLC
214 Second Avenue North, Suite 300
Nashville, TN 37201

This 3rd day of February 2017.



Andrew W. Coffman
Assistant General Counsel